

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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FRESH MIX, LLC,

Plaintiff(s),

v.

PISANELLI BICE, PLLC, et al.,

Defendant(s).

Case No.2:24-CV-397 JCM (NJK)

ORDER

Presently before the court is plaintiff Fresh Mix, LLC's emergency motion to shorten time regarding Fresh Mix's motion for a preliminary injunction. (ECF No. 109). Defendant Pisanelli Bice, PLLC, filed a response (ECF No. 112), to which Fresh Mix replied (ECF No. 113). For the reasons stated below, the court denies the motion.

This case arises out of alleged legal malpractice. Fresh Mix filed a complaint earlier this year alleging legal malpractice and bankruptcy fraud against 16 defendants, including the law firm Pisanelli Bice. (ECF No. 8). Fresh Mix accuses the defendants of "driv[ing] down the value of Fresh Mix to zero and leav[ing] the company valueless." (*Id.* at 4). Fresh Mix is seeking injunctive relief and \$80 million in damages. (*Id.*).

In September, Pisanelli Bice was awarded \$28 million in attorney's fees in a separate bankruptcy case for a client. (ECF No. 109). Fresh Mix tried to initiate an adversary proceeding in that case to prevent distribution of the attorney's fees to Pisanelli Bice. (*Id.*). The bankruptcy court granted a temporary stay to give Fresh Mix time to request more appropriate relief in this court. (*Id.*). The stay expires on November 22, 2024. (ECF No. 109).

Fresh Mix now moves on an emergency basis to enjoin the distribution of the attorney's fees to Pisanelli Bice. It argues it will suffer irreparable harm if the \$28 million is distributed to

1 Pisanelli Bice because the law firm will be “freely able to dissipate the funds despite the potential
2 damages looming in the case now before this Court.” (*Id.* at 4). Pisanelli Bice opposes the
3 emergency basis of the motion. (ECF No. 112).

4 Local Rule 7-4 admonishes that emergency motions “should be rare,” and the court has
5 discretion to determine “whether any matter submitted as an ‘emergency’” is, in fact, an
6 emergency. This court has observed that an emergency may occur when the movant will be
7 “irreparably prejudiced” by a normal briefing schedule. *Ignited Spirits, Inc. v. Consulting by AR,*
8 *LLC*, Case No. 2:21-CV-1590 JCM (EJY), 2022 WL 4112220, *1 (D. Nev. Aug. 29, 2022).

9 Fresh Mix asks the court to shorten briefing time on a preliminary injunction motion in
10 which it asks to freeze \$28 million in Pisanelli Bice’s assets. The purported “emergency” is to
11 prevent Pisanelli Bice from transferring or disposing of the \$28 million before the parties resolve
12 their claims in this action. Though the court acknowledges the timeliness issue of the temporary
13 stay, there is no “emergency” here on which the court is compelled to act.

14 Economic damages, which may be remedied with a later judgment for monetary damages,
15 do not constitute irreparable harm. *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*,
16 634 F.2d 1197, 1203 (9th Cir. 1980). Fresh Mix’s request would require this court to interfere
17 with a wholly separate legal action in the bankruptcy court based on a speculative assumption it
18 will prevail in this action. The court finds that no “emergency” arises under such circumstances.

19 Moreover, Pisanelli Bice argues Fresh Mix delayed its request in this court such that it
20 cannot claim its motion is an emergency. The court agrees. Fresh Mix does not explain why it
21 waited until November 13 to ask this court for emergency relief, when it first became aware of the
22 \$28 million judgment in September. (ECF No. 112). Nor has Fresh Mix tried to seek injunctive
23 relief related to Pisanelli Bice’s other assets prior to the instant motion. The procedural
24 circumstances also lead the court to deny Fresh Mix’s emergency motion to shorten time.

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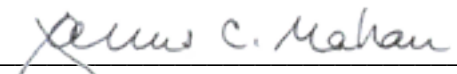
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Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff Fresh Mix's emergency motion to shorten time (ECF No. 110) be, and the same hereby is, DENIED.

DATED November 19, 2024.


UNITED STATES DISTRICT JUDGE